

March 16, 1998

Col. Leo W. Haseman
Director, Division of Enforcement
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4047

RE: In the Matter of the Trespass Citation Issued to Kurt Alan Kukuk; OAH
Docket No. 6-2000-11514-2

Dear Colonel Haseman:

On March 5, 1998, a prehearing conference was held in this matter. Participating in the conference were Kurt Kukuk, Conservation Officer Gary Thell, Tom Braesch of the Union Pacific Railroad Company, and the undersigned Administrative Law Judge.

After some discussion of the matter, it was determined that there was no point in holding a formal hearing. Mr. Kukuk has already paid the fine, and so no additional payment is required from him.

Basically, Mr. Kukuk was snowmobiling with his son and unknowingly entered into the Union Pacific Railway's right of way. The land was properly posted, but Mr. Kukuk did not see the signs. He was stopped by Mr. Braesch, who issued him a citation. Mr. Kukuk believes a warning would have been more appropriate. I explained to him that it was Officer Thell's judgment as to whether he should give a warning, a civil citation or pursue the matter criminally, and that under the facts as I had heard them, I would not interfere with that judgment. Mr. Kukuk respectfully disagreed with Officer Thell's judgment, but decided there was no point in pursuing the matter any further.

As Mr. Kukuk has already paid the fine, there is nothing more that needs to be done in this matter, and I am closing our file and returning the record to you.

Sincerely,

AWK/lr
Enclosures
cc: Kurt Alan Kukuk
Conservation Officer Gary Thell

ALLAN W. KLEIN
Administrative Law Judge
Telephone: 612/341-7609